
1998 Wis Eth Bd 9
IMPROPER USE OF OFFICE

The Ethics Board advises that a legislator and spouse may accept the offer of free membership in a not-for-profit organization that is not a lobbying principal as long as there is no benefit from membership apart from receiving the organization's newsletter and membership cards of unexceptional value.

Facts

¶ 1 This opinion is based upon these understandings:

- a. You are a member of the legislature.
- b. An individual who recently spoke to you about a bill that is before the legislature has furnished you and your spouse membership in an organization that is interested in the bill.
- c. The organization is a non-stock, not-for-profit Wisconsin Corporation and is not a lobbying principal.
- d. The organization has sent you and your spouse a membership card signifying your membership.
- e. As a member of the organization, you will receive the organization's newsletter.

Question

¶ 2 The Ethics Board understands your question to be:

May you and your spouse, consistent with laws administered by the Ethics Board, accept the gift of membership, and membership cards, in the organization?

Discussion

¶ 3 Of the statutes administered by the Ethics Board, the provision most pertinent to your question is §19.45(2), *Wisconsin Statutes*.¹ That section,

¹ Because the organization is not a lobbying principal, and the individual who has furnished you with membership is not a lobbyist, Wisconsin's lobbying law does not apply.

reduced to its elements, provides:

No state public official
May use his or her public position or office
To obtain anything of substantial value
For the private benefit of the official or for a member of the official's
immediate family.²

You are a state public official.³ The membership in the organization apparently has been offered to you and your spouse because you are a member of the legislature. Your acceptance, then, is a use of your office.⁴ The next question is whether membership in the organization is something of substantial value. From the facts you have presented, it does not appear that it is. Apart from receiving the organization's newsletter and membership cards, and the honor of being a member of the organization, there appear to be no benefits that flow from membership. And there is nothing to suggest that the newsletter or membership cards have other than token value.⁵ Thus, the restriction in §19.45(2) does not apply.

² Section 19.45(2), *Wisconsin Statutes*, provides:

19.45(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

³ Section 19.42(13)(c), *Wisconsin Statutes*, provides:

19.42(13) "State public office" means:
(c) All positions identified under s. 20.923(2), (4), (4m), (6)(f) to (h) and (8) to (10), except clerical positions.

Section 20.923(2)(b), *Wisconsin Statutes*, identifies legislators.

⁴ See, e.g., 1997 Wis Eth Bd 13, ¶4; 1997 Wis Eth Bd 4, ¶4; 1997 Wis Eth Bd 2, ¶5; 1996 Wis Eth Bd 15, ¶5.

⁵ Something is of substantial value if it is of more than token or nominal value. 1997 Wis Eth Bd 13, *supra*, ¶4; 7 Op. Eth. Bd. 2 (1983); 5 Op. Eth. Bd. 99 (1982); 5 Op. Eth. Bd. 73 (1981).

Advice

¶ 4 The Ethics Board advises that you and your spouse may accept the offer of free membership in the organization as long as there is no benefit from membership apart from receiving the organization's newsletter and membership cards of unexceptional value.

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